



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: DECEMBER 08, 2022

IN THE MATTER OF:

Appeal Board No. 625495

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determinations disqualifying the claimant from receiving benefits, effective October 2, 2021, on the basis that the claimant voluntarily separated from employment without good cause and, in the alternative, on the basis that the claimant lost employment through misconduct in connection with that employment and holding that the wages paid to the claimant by prior to October 2, 2021 cannot be used toward the establishment of a claim for benefits. The claimant requested a hearing.

The Administrative Law Judge held telephone conference hearings at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances on behalf of the claimant and the employer. By decision filed August 12, 2022 (), the Administrative Law Judge granted the employer's application to reopen A.L.J. Case No. 022-13917 and overruled the initial determinations.

The employer appealed the Judge's decision to the Appeal Board, insofar as it overruled the initial determinations. The Board considered the arguments contained in the written statement submitted on behalf of the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. The parties should have another opportunity to submit additional testimony and other evidence. Specifically, the claimant should produce medical documentation regarding her medical condition and any medical advice that she received regarding taking the COVID-19 vaccine due to her medical condition. The claimant is placed on notice that a failure to produce the

documentation may result in a negative inference being taken against the claimant.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge, insofar as it overruled the initial determinations, be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issues of voluntary quit and misconduct, upon due notice to all parties and their representatives; and it is further

ORDERED, that the claimant should produce medical documentation regarding her medical condition and any medical advice that she received regarding taking the COVID-19 vaccine due to her medical condition; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issues of voluntary quit and misconduct, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER